FACT SHEET

THIRD JOINT STATUS REPORT UNDER THE U.S.-JAPAN ENHANCED INITIATIVE ON DEREGULATION AND COMPETITION POLICY

July 19, 2000

OVERVIEW

In light of Japan's low economic growth, the Government of Japan has undertaken significant fiscal and monetary stimulus. These have been necessary measures to rekindle sustainable growth, but will prove insufficient unless coupled with structural change driven by deregulation that frees up the economy to greater competition.

Initiated by President Clinton and then-Prime Minister Hashimoto at the Denver Summit of 1997, and carried out by U.S. Trade Representative Charlene Barshefsky and then Foreign Minister Yukihiko Ikeda, the Enhanced Initiative on Deregulation and Competition Policy seeks to eliminate bottlenecks that inhibit Japanese structural change and economic adjustment. This report on the third year of the Enhanced Initiative was agreed to by the U.S. and Japan under the co-chairmanship of Deputy U.S. Trade Representative Richard Fisher and Japan's Deputy Foreign Affairs Minister Yoshiji Nogami. It focuses on telecommunications, energy, housing, medical devices, pharmaceuticals, and financial services. It also addresses cross-cutting competition policy, transparency, and distribution.

Building on achievements made over the past two years, the new measures contained in this Joint Status Report constitute a significant step forward in Japan's ongoing efforts to clear out the regulatory thicket that has prevented the world's second-largest economy from realizing sustainable economic recovery. Simultaneously, this Initiative remains a crucial component of the Clinton Administration's strategy to further open markets in Japan. It is crafted to complement our multilateral agenda in APEC and the WTO and our ongoing bilateral trade agreements on issues such as autos and auto parts, government procurement and insurance.

The measures under this Initiative will translate into significant gains for U.S firms doing business in Japan. At the same time, Japanese consumers will benefit across the board from lower prices, greater choice, and more innovative new products. Most importantly, these deregulatory steps will contribute to sustainable recovery of the Japanese economy. This is good for Japan, Japan's trading partners, and the world.

TELECOMMUNICATIONS

Background: Over-regulation of new entrants in Japan's telecommunications sector and weak controls over the powerful dominant carrier, NTT, have stifled competition in Japan's $130 billion telecommunications market and deprived the Japanese economy of the benefits of innovative services and low prices. In an attempt to address these problems, the United States has called for a "Telecommunications Big Bang," pressing for elimination of unnecessary regulations and stronger safeguards against anti-competitive behavior by dominant carriers.

Accomplishments: To address these problems, Japan has agreed to:

- Reduce the rates for competitiors to interconnect with NTT's network by about 50% at the regional level (of greatest importance to U.S. companies) and 20% at the local level by 2001.

- Conduct a thorough review of NTT's interconnection rates in 2002, based on an improved rate calculation model. This process should result in additional and substantial rate reductions in 2002.

- Open new points of access ("unbundling") to NTT's network and enact rules to ensure fair usage rate and conditions in order to allow new entrants to compete in providing high-speed Internet services.

- Enhance new entrants' ability to build new networks by 1) eliminating restrictions on new competitors' ability to construct their own networks in the most efficient way, and 2) removing certain road construction restrictions and promoting measures to improve access to underground tunnels controlled by NTT and electric utilities.

- Determine by March 2001 if interconnection with NTT DoCoMo, Japan's largest wireless provider, should be regulated more strictly because of DoCoMo's "dominant" market power.

Benefits to the U.S.: These agreements will improve U.S. firms' access to Japan's $130 billion telecommunications sector, the second largest in the world. Lowering interconnection rates to the levels agreed above will in itself save competitive carriers over $2 billion over the next two years. The benefits for new competitors should be even more significant in 2002, as interconnection rates will likely drop even more sharply. Japanese consumers will benefit from better service and lower costs. Interconnection cuts will reduce the cost of business-to-business transactions and Internet usage. They will also stoke Japan's economic recovery, stimulating trade between the world's two largest economies.

ENERGY

Background: Japan is the third-largest energy market in the world, behind the U.S. and China. Japan's ten utilities together produce about three-quarters of Japan's power needs.

In March, Japan opened nearly one-third of its electricity market to competition, allowing large industrial customers to choose their electricity supplier. This reform is intended to help reduce Japan's energy prices, which are the highest in the OECD, and in doing so, increase economic growth and create thousands of new jobs. During this year's energy dialogue under the Enhanced Initiative, the U.S. and Japan reached agreement on key measures related to implementation of this electricity deregulation, which will help ensure its success. The agreement reached between the two governments also will lay the groundwork for further deregulation in this important sector.

Accomplishments:

- Japan has pledged to fully implement and enforce measures designed to ensure fair, open, and non-discriminatory access to its electricity transmission grid - the utility-owned network that is the only channel for transmitting electricity from one point to another in Japan.

- Japan will disclose information on the development of transmission rates by utilities so that new firms seeking to compete in the market can determine if these rates are being set fairly.

- To foster the shift from a monopoly to a competitive market in the electricity sector, Japan agreed to eliminate its antitrust exemption for natural monopolies (including electricity and gas), enforce competition guidelines and expand them as appropriate, and actively promote competition in this sector.

- Japan agreed to establish a fair, transparent, and non-discriminatory framework for access to its natural gas sector, which is to be liberalized next year.

- Japan also agreed to review the results of these initial liberalization steps in three years. We expect this view to lead to further liberalization of the energy sector.

Benefits to the U.S.: U.S. firms will be able to produce, sell, and trade power in Japan's $135 billion electric power market. Japan's reforms also will create new opportunities for exports to Japan's $15 billion market for electrical generation equipment, as well as to Japan's growing energy services market.

HOUSING

Background: Japan's $42 billion home building materials market is the second-largest in the world. Unwieldy rental market restrictions and government-imposed limits on the size of wooden buildings have stymied market access and driven up housing costs for Japanese consumers.

Accomplishments: This year's progress under the Enhanced Initiative includes:

- A December 1999 change to Japan's Land and House Lease Law governing lease renewals. This reform will allow Japan to develop a quality rental housing market, improving housing choices for millions of Japanese families and creating enormous opportunities for domestic and foreign builders and suppliers. Experts project this change will lead to a 17% increase in new housing starts within an hour's drive of Tokyo.

- Continuing our efforts from previous years, Japan has agreed to reduce restrictions against four-story wood-frame buildings. This step will strengthen the current boom in construction of wood-frame houses, and could ultimately mean substantial increases in the sales of U.S. wood products.

- Japan has agreed to help improve housing appraisals by ensuring that maintenance and renovation are factored into appraisal value. We have also encouraged Japan's government mortgage bank to make mortgage terms for resale housing more compatible with the terms already offered for new houses, a change likely to happen this year. As a result, more realistic valuations and increased transparency will make housing more affordable for young Japanese families.

Benefits to the U.S.: The U.S. now sells approximately $3.3 billion in building materials to Japan each year. These reforms will create important new opportunities for U.S. firms, who stand to benefit from hundreds of millions of dollars in new sales while spurring Japan's economic growth and providing more affordable, high-quality homes for Japanese consumers.

MEDICAL DEVICES, PHARMACEUTICALS AND NUTRITIONAL SUPPLEMENTS

Background: Continued over-regulation and inefficiencies in Japan's medical device, pharmaceutical and nutritional supplement sectors have slowed the introduction of innovative, cost-effective products into Japan. Increasing the availability of these products is a key to helping Japan meet the challenge of providing increased quality health care to its aging population while limiting overall costs.

Accomplishments: Japan has agreed to take 25 concrete new deregulation measures that will increase the access of U.S. manufacturers to Japan's health care market, including:

- From October 2000, establish an unbiased and transparent appeals process that will allow U.S. suppliers to challenge unfavorable pricing decisions for medical devices and pharmaceuticals under Japan's national health insurance system.

- Implement a transparent and speedy process for creating new medical device pricing categories and provide appropriate interim prices for new devices (within four months) while their final prices are being implemented, and take steps to prevent disproportionate price cuts on U.S. products due to restructuring of functional categories.

- Work toward increasing the availability of innovative medicines in the marketplace through Japan's pharmaceutical pricing reform process.

- Take specific measures to improve the transparency and speed of the approval procedures for both drugs and medical devices, including increased use of foreign clinical data. This will result in faster patient access to cutting-edge products.

- Abolish restrictions on the shape and maximum daily dosages of many common vitamins and minerals, and allow manufacturers to provide Japanese consumers with information about the nutritional and health benefits of these products.

- On April 1, 2000, Japan implemented a reduction in the approval processing time for new drugs from 18 months to 12 months.

Benefits to the U.S.: Japan is the world's second largest market for medical devices and pharmaceuticals. In both sectors, U.S. firms are the dominant worldwide suppliers of innovative products and will be the key beneficiaries of the measures Japan has committed to implement under this year's deregulation package. U.S. firms now hold 12% of Japan's $60 billion pharmaceutical market and almost 30% of Japan's $20 billion medical devices market. In the nutritional supplements sector, U.S. companies have captured approximately $500 million of Japan's $6.5 billion market. While significant, these market shares are less than in other developed countries. The steps Japan will take are critical to ensuring that the steady stream of innovative medical devices and drugs being developed by U.S. firms can gain timely access to the Japanese market.

DISTRIBUTION AND CUSTOMS

Background: Japan's rigid and inefficient distribution and customs systems have restricted market access to U.S. firms in many sectors, including glass, film, and paper. Japan's new Large Store Location Law marks an important step forward, but must be carefully monitored to ensure that its implementation does not unfairly discriminate against large stores. Japan's inefficient customs system has burdened both Japanese and foreign businesses with high costs and unwieldy procedures.

Accomplishments: Significant new Japanese measures include:

- On June 1, 2000, Japan replaced the Large Stores Law with the Large Scale Retail Store Location Law (Store Location Law). Japan has agreed to ensure that this new law is implemented in a consistent, transparent, and fair manner

- Local governments are responsible for implementing the Stores Location Law. Japanese, U.S., and other foreign retailers, however, have expressed concerns that small shop owners will intervene with local authorities to make unreasonable demands on large retailers over issues related to traffic, parking, noise, and trash removal. To address these concerns, the Ministry of International Trade and Industry (MITI) is establishing official contact points in Tokyo and around the country to field complaints and facilitate their resolution.

- To address concerns that local governments will not implement the Store Location Law in a uniform manner, Japan has committed to an information campaign to ensure maximum awareness about the new law, and to provide local governments with technical assistance with regard to its implementation.

- By increasing the amount of goods that Customs officers are allowed to process during overtime work, Japan Customs has effectively reduced the costs of releasing goods imported into Japan, saving U.S. and other foreign importers millions of dollars a year.

- Over the next year, Japan Customs will introduce a new Simplified Declaration Procedure that will move imports into Japan more efficiently through streamlined procedures for duty payments and reporting requirements.

Benefits to the U.S.: These reforms will help American retailers achieve additional progress in gaining access to Japan's $1.5 trillion retail market. U.S. retailers already operating in Japan - including Toys R Us, Gap, Eddie Bauer, and Costco - will continue to benefit from increasing deregulation in this sector. Japan's streamlined customs procedures are expected to yield substantial savings to American businesses. One U.S. firm, for example, estimates that its overtime fees will be cut by millions of dollars a year due to the increased number of pieces customs officials are allowed to inspect per hour.

FINANCIAL SERVICES

Background: Japan's pool of individual savings - valued at over $12 trillion - is the largest outside the United States. But, until recently, Japanese investors had a very limited range of investment choices, and most of these funds have been held in low-return assets. Strict regulations narrowly defined the scope of financial firm activities, reducing competition and innovation in the sector, as well as limiting the opportunities available to American financial services providers.

Accomplishments: Japan's "Big Bang" financial liberalization initiative, which builds on and extends Japan's undertakings in the 1995 U.S.-Japan Financial Services Agreement, commits Japan to a fundamental deregulation of the financial sector. Bilateral financial services discussions have sought to ensure that Big Bang measures were extended and fully implemented, and that foreign firms share fully in the new opportunities opening up. Notable deregulation measures in this report include:

- Full liberalization of brokerage commissions on stock transactions (October 1999) will greatly increase competition among brokerages, as it has in other financial markets

- The elimination of restrictions on the scope of business of cross-industry subsidiaries (e.g., securities subsidiaries of banks) has eliminated much of the artificial segmentation of the financial services industry

- The elimination in June 2000 of the requirement to liquidate portfolio holdings when switching private pension fund managers greatly increases the ability of new entrants to compete for existing pension fund business. Japan will eliminate the corresponding requirement for public pensions by April 2001, and permit investment advisers to directly manage public pension funds

- The initiation by the Financial Services Agency of a system of response to written inquiries, including requests for published guidance and no-action letters, to improve transparency and predictability in the regulatory process.

Benefits to the U.S.: Drawing on their technological and innovative strengths, American financial services providers have already reaped significant commercial opportunities from the liberalization of Japanese financial markets. The Japanese investment trust (mutual fund) market has expanded sharply this year, and the number of foreign-affiliated investment trust companies has more than doubled in the past two years. This year, for the first time, a jointly-owned American-Japanese firm (Nikko Salomon Smith Barney)led the market in new equity issuances. American firms captured the top four spots as advisers to M&A transactions. American firms have also entered the Japanese banking, securities, and insurance sector through the acquisition of Japanese firms. Opportunities for U.S. firms will continue to expand in the future, as Japan's financial market continues to develop, and as the Japanese invest in an increasingly sophisticated range of financial products.

INSURANCE

Background: Japan's insurance market is the largest in the world at $331 billion in direct net premiums for 1998. Yet it continues to be over-regulated, non-transparent, and presents serious challenges to U.S. firms, including an inadequate product and rate approval system and shortages of skilled staff.

Japan's government-owned and operated postal insurance system, or Kampo, is the largest insurer in the world, with over $1 trillion in invested assets and more than 82 million policies. Kampo's state-owned status makes it exempt from certain areas of government oversight, inspection, and financial obligations.

Accomplishments: As a result of this year's Initiative, Japan's new pledges include:

- Speeding new and innovative insurance products to the market by shortening standard product examination periods and reviewing whether the streamlined "notification" system can be extended to additional commercial and personal insurance lines.

- Examining ways in which Japan's published insurance product examination regulations can be clarified.

- Providing more information to private firms in writing.

- Ensuring a level playing field for all firms by examining insurance product applications in the order they were submitted.

- Avoiding product approval bottlenecks through more efficient use of Japan's regulatory personnel and technical resources.

- Affirming that the GOJ has no current plans to expand Kampo into additional areas of non-life insurance, and that the Ministry of Posts and Telecommunications will explain upon request to foreign insurance providers and other interested parties any plans to change Kampo insurance offerings.

Benefits to the U.S.: These new measures build on progress in deregulating the Japanese insurance market achieved through the 1994 and 1996 bilateral insurance agreements, and will further approve U.S. firms' access to Japan's $331 billion insurance market. By streamlining the current product approval system and clarifying Japanese Government rules and regulations covering insurance, a wider array of new, innovative, and cost-competitive insurance products will become more readily available to Japanese consumers. Further, a focus on limiting potential expansion of Kampo will ensure that the private sector, fully capable of meeting all of the insurance needs of the Japanese public, is not inappropriately challenged by government intervention in this important market.

COMPETITION POLICY

Background: A key goal of the Enhanced Initiative is to ensure that government deregulation is not undone by anti-competitive actions orchestrated by private-sector players. Preventing incumbent firms in once heavily regulated sectors from using their market power to stifle competition is of particular concern. The same holds for preventing cartels from undermining the health of the economy and excluding foreign competition. Bid rigging on public procurement projects is especially problematic in Japan. Strong antitrust enforcement is needed to combat such problems. The upcoming reorganization of the Japanese Government, however, threatens to compromise the independence of the Japan Fair Trade Commission's (JFTC) oversight of the posts and telecommunications sectors, as MPT will be placed in the same ministry as JFTC.

Accomplishments: Significant new measures to address these problems include:

- The JFTC will actively enforce Japan's antitrust laws against incumbent firms in partially or fully deregulated sectors (such as the telecommunications and energy sectors) that try to use their dominant market position to exclude or harm competitors.

- Japan has pledged it will not allow the upcoming government reorganization to affect JFTC independence in antitrust enforcement and competition policy promotion related to the posts and telecommunications sectors.

- The National Police Agency (NPA) and the JFTC will initiate a new cooperation mechanism for investigating bid rigging; the NPA will provide the assistance to local police departments necessary to ensure they can vigorously and effectively investigate criminal bid-rigging, or *dango* activities.

- The JFTC will survey the competition effects of financial ties and other relationships between manufacturers and distributors and take additional measures to promote an efficient and competitive distribution and retail sector.

- The JFTC will strengthen its capabilities to act against cartels by improving the effectiveness of its searches, fortifying its ability to obtain evidence stored on computers, actively seeking penalties against obstruction of its investigations and aggressively pursuing international cartels.

Benefits to the U.S.: Active competition - safeguarded by vigorous Antimonopoly Law enforcement and broad-based government support for competition principles - will help reinvigorate Japan's economy and help open Japanese markets to American firms. Japan's agreement to ensure an independent JFTC committed to actively enforcing the law against exclusionary practices in deregulated sectors such as electricity and telecommunications will be a key factor in ensuring true market access for American competitors. Strengthened efforts to root out cartels and bid rigging conspiracies should also help eliminate private anti-competitive barriers hindering U.S. exports of goods and services to Japan.

TRANSPARENCY OF THE REGULATORY SYSTEM

Background: Despite improvements in recent years, Japan's regulatory system continues to lack the transparency and accountability necessary to ensure that all players have the same access to public information and the policymaking process. New market entrants and competitors need adequate information on Japan's regulatory system in order to base their decisions on accurate assessments of potential costs, risks and market opportunities. This is especially true for foreign firms, which do not have the same access to the bureaucracy as domestic firms.

Accomplishments:

- In January 2001, Japan will increase regulatory transparency and bureaucratic accountability by introducing a government-wide policy evaluation system.

- Last year, Japan introduced a Public Comment Procedure that allows the public to review and comment on draft regulations. The U.S, however, has ongoing concerns about the Procedure's implementation, including overly short comment periods and the fact that public comments rarely appear to be reflected in final regulations. As a result, Japan has agreed to examine the Procedure's implementation, including the length of comment periods used and reasons why the ministries do not use the Procedure in particular cases. The public will have an opportunity to comment on the survey.

- When Japan enacted its 1999 government information disclosure law, it exempted special public corporations (*tokoshu hojin*) from the information disclosure obligations. However, a special government committee is preparing recommendations for legislation to require these corporations to disclose information to the public in the same way already mandated for central government ministries and agencies.

Benefits to the U.S.: Reforms that increase the transparency of the regulatory process and make the bureaucracy more accountable help curb onerous discretionary powers of the bureaucracy and shift power to the public. Such reforms also help level the playing field for foreign firms, reducing the special advantages traditionally enjoyed by Japan's domestic firms. For example, Japan's policy assessment system will, beginning in January 2001, require ministries and agencies to evaluate the effects of their policies both before and after implementation and make their policy evaluations public.

LEGAL SERVICES

Background: There is not enough legal expertise in Japan to support the increased merger and acquisition and commercial restructuring activity that is critical to the recovery of the Japanese economy. Moreover, by continuing to bar Japanese lawyers from becoming partners with foreign lawyers, Japan has limited the ability of Japanese and foreign businesses to obtain the fully integrated transnational legal services they need for efficiently effecting domestic and cross-border transactions.

Accomplishments: This year, the Government of Japan has recognized the need to modernize and liberalize its legal system, and has agreed to take significant first steps to begin that process:

- Japan has established a Judicial Reform Council to review a wide range of steps to make the legal system more responsive to the needs for increased legal services in Japan.

- The Japanese Federation of Bar Associations (Nichibenren) has lifted the ban on business advertising by Japanese and foreign lawyers. They are now allowed to advertise their areas of practice, background and fees through newspapers, magazines and on the Internet.

- Japan has increased the number of successful applicants to the annual Bar Examination by about 1000. While this number represents an incremental change, it falls short of the number needed to meet Japan's burgeoning legal demands. However, the Japanese Government is considering further increases, and the Judicial Reform Council is investigating ways to address this need.

Benefits to the U.S.: Japanese and U.S. businesses are actively contributing to the Japanese Government's efforts to address the deficiencies in Japan's legal system. Lifting the advertising ban will allow U.S. legal professionals to raise their visibility in the Japanese market, and also enable U.S. firms to more easily locate needed legal services to effect business development, investments, and merger and acquisition activity. Increasing the number of Japanese lawyers will also help alleviate demands for legal expertise necessary for U.S. firms to successfully do business in Japan.

(End)